

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

)
Amendment of Parts 73 and 74 of the)
Commission's Rules to Permit)
Unattended Operation of Broadcast)
Stations and to Update Broadcast)
Station Transmitter Control and)
Monitoring Requirements)

MM Docket No. 94-130

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To: The Commission

**COMMENTS ON
NOTICE OF PROPOSED RULE MAKING**

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SUMMARY

The named state broadcaster associations (the "Associations") will demonstrate that the unattended operation of a broadcast station is feasible, reliable and economically prudent. It is no longer necessary to require a duty operator to physically monitor a station's operation in order to avoid out-of-tolerance operation by a broadcaster. Automatic Transmission System ("ATS") and ATS-like equipment can provide protection against out-of-tolerance broadcast conditions more reliably and more economically than can duty operators. It is therefore clear that unattended operation of a broadcast station is a legitimate method of operation that should be permitted.

In furtherance of current efforts to reduce regulatory burdens, the Commission should also consider eliminating the requirement of designating chief operators. As will be demonstrated, designating a chief operator serves no real purpose since the chief operator often possesses no real technical skill. Further, it is the licensee, not the chief operator, who will ultimately ensure that a station operates within its parameters.

Permitting the automated monitoring of antenna tower lighting would also help licensees cut costs and would improve aviation safety. Continuous electronic monitoring of antenna tower lighting is more reliable and less costly than daily physical inspection of the lighting.

Finally, setting forth specific items that need to be noted in a station's log would provide the guidance licensees need to comply with the Commission's Rules. Specifically, the Commission should require licensees to note the power determining values, directional antenna parameters, monitoring point values and a

check of the antenna tower lighting circuits and controls in the station's log.

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To: The Commission

JOINT COMMENTS OF THE NAMED BROADCASTER ASSOCIATIONS

The Alabama Broadcasters Association, the Arizona Broadcasters Association, the Connecticut Broadcasters Association, the Georgia Association of Broadcasters, the Iowa Broadcasters Association, the Maine Association of Broadcasters, the Maryland, D.C., Delaware Broadcasters Association, the Massachusetts Broadcasters Association, the Minnesota Broadcasters Association, the Missouri Broadcasters Association, the Nebraska Broadcasters Association, the Nevada Broadcasters Association, the New Hampshire Association of Broadcasters, the North Dakota Broadcasters Association, the Oklahoma Association of Broadcasters, the Tennessee Association of Broadcasters, the Texas Association of Broadcasters, the Utah Broadcasters Association, the Washington State Association of Broadcasters, the Wisconsin Broadcasters Association, as well as the National Association of Shortwave Broadcasters, Inc. (collectively, the "Associations"), by their attorneys and pursuant to Section 1.415

of the Commission's Rules, hereby jointly comment on the above-captioned Notice of Proposed Rule Making ("NPRM").^{1/}

I. INTRODUCTION

The Associations represent member organizations that are regulated by the Commission giving them a direct interest in this matter. The Associations are chartered to help preserve a regulatory and economic environment that is optimally conducive to the growth of the free, over-the-air, local broadcast industry. The Associations appreciate the opportunity to provide their views on the issue of whether the Commission should waive the requirement that a broadcast station have a licensed radio operator on duty who is in charge of the transmitter during all periods of broadcast operation. The Associations also thank the Commission for the chance to submit comments on other issues related to unattended operation of broadcast stations, i.e., the automated monitoring of antenna tower lighting and the problems associated with keeping accurate technical logs.

The National Association of Shortwave Broadcasters, Inc. ("NASB") also appreciates the Commission's willingness to investigate ways to reduce the costs and burdens associated with the regulation of its broadcast members. The majority of NASB members are non-profit organizations that rely on public donations to fund their operations. Thus, examining the appropriateness of Section 73.764 of the Commission's Rules, the

^{1/} Amendment of Parts 73 and 74 of the Commission's Rules to Permit Unattended Operation of Broadcast Stations and to Update Broadcast Station Transmitter Control and Monitoring Requirements, Notice of Proposed Rule Making, ("NPRM"), MM Docket No. 94-130, FCC 94-289 (December 7, 1994).

section that requires international broadcast station operators to employ duty operators, and related regulations is particularly important in the Commission's efforts to improve regulatory efficiency.

II. BACKGROUND

Section 73.1860 of the Commission's Rules states that each AM, FM or TV broadcast station must have a licensed duty operator in charge of the transmitter during all periods of the day. The duty operator must possess a commercial radio operator license or permit of any class. The operator must be on duty at the transmitter site, a remote control point, an Automatic Transmission System ("ATS") monitor and alarm point or a location equipped with extension meters. The duty operator ensures that the station's transmitter does not operate out of tolerance; however, it is the licensee who is ultimately held responsible for any operation that is not in compliance with the Commission's Rules.

The Commission proposes to waive the requirement that duty operators monitor stations' transmitters, thus allowing unattended operation of broadcast stations. For those stations which continue to employ duty operators, the Commission proposes to waive the requirement that the duty operators be licensed. Further, the Commission proposes to alter various rules that are related to or would be impacted by the unattended operation of broadcast facilities.

III. DISCUSSION

A. Unattended Operation

The Associations fully support the Commission's proposal to permit the unattended operation of broadcast stations.

Technological advances have eliminated the need for constant human verification of proper operation of broadcast stations and human intervention in the event that out-of-tolerance conditions occur.

As the Commission recognizes, station transmissions now can be automatically and reliably controlled by ATS equipment.^{2/} Bob du Treil, Sr., a highly respected broadcast engineer with decades of experience and President of du Treil, Lundin & Rackley, Inc.,^{3/} has closely examined the possible ramifications of the Commission's proposals and has concluded that unattended operation of broadcast stations is proper. Mr. du Treil believes that a well-designed and correctly implemented ATS can likely control a station to a better degree than human intervention. Further, according to Mr. du Treil, frequency deviations beyond that permitted by the rules are rare and when deviations do occur they are not likely to cause substantial interference.^{4/}

^{2/} International broadcast station operators are also able to use ATS and ATS-like equipment to prevent or cure out-of-tolerance conditions.

^{3/} du Treil, Lundin & Rackley, Inc., a subsidiary of A.D. Ring, P.A., is located at 240 North Washington Boulevard, Suite 700, Sarasota, Florida 34236.

^{4/} Mr. du Treil points out that most stations install only enough transmitter power to achieve the authorized power
(continued...)

The Commission seeks comment on whether it should permit the unattended operation of a broadcast station only if the station is equipped with ATS or ATS-like equipment. The Associations believe that such a restriction is appropriate. Although stations are sometimes equipped with highly stable state-of-the-art transmitters, human intervention can still inadvertently cause transmission problems, such as transmission overmodulation. Without ATS equipment to automatically alert the appropriate personnel about the overmodulation, remedy the problem or take the station off the air, the overmodulation could go temporarily undetected. ATS equipment could prevent this from occurring.

AM broadcast stations create additional concerns due to the change in day and night power levels and use of directional antennas. The Associations agree with Mr. du Treil's assessment that ATS equipment can be used to prevent an AM station from inadvertently operating at higher daytime power during the nighttime by automatically shutting down the transmitter within three minutes of the out-of-tolerance condition.

AM stations utilizing directional antennas require special consideration. According to Mr. du Treil, systems monitoring directional antennas provide an indication of both the internal operation of the station and external influences of local field disturbances or reradiation of a station's energy by a separate antenna not under the station's control. Recognizing this fact,

⁴/ (...continued)

level, due to the fact that more powerful transmitters are more expensive to install and operate. Therefore, it is not often that a station has power capability in excess of 10% to 20% above its authorized power.

the Commission should permit AM broadcasters using directional antennas to temporarily operate one or more of the monitoring points in an out-of-tolerance condition as long as the antenna monitor parameters are correct. AM licensees should be given one week to 10 days to investigate the possible causes of the monitoring point outages and correct the problem.

The Commission also seeks comment regarding the length of time stations should be permitted to operate when there are other out-of-tolerance conditions before being required to go off air. Regarding out-of-tolerance conditions that pose little or no threat of interference, i.e., operation at reduced power or use of an emergency antenna, the Associations agree with the Commission that licensees should be given 10 days to correct the problem before notifying the Commission. If the condition persists for more than 90 days, the licensee should be required to apply for a special temporary authorization ("STA") to continue operation at the out-of-tolerance condition for up to six months. The licensee should be allowed to apply for STA renewals as conditions warrant.

Regarding out-of-tolerance conditions that are capable of causing interference, i.e., overmodulation, incorrect antenna pattern and operation beyond frequency tolerance, the Associations believe that stations should be afforded at least three minutes to correct the problem before being forced off the air, regardless of whether the station operation is being monitored by a duty operator or ATS equipment. The Commission's suggestion that the stations be forced off the air "immediately"

appears to be too harsh a consequence for a problem that could be solved in a matter of a few moments.

B. Duty Operators and Chief Operators

The Commission also seeks comment on whether it is necessary to continue to license duty operators in the event that a licensee chooses to employ a duty operator to monitor station operations instead of relying on ATS equipment. The Associations urge the Commission to eliminate the requirement that duty operators be licensed.^{5/}

A duty operator often holds a Restricted Radiotelephone Operator Permit ("RP"), the lowest class of such a license. RP holders receive no specific training nor pass any written test; rather, they merely certify, inter alia, that they are capable of keeping written logs and that they are familiar with applicable laws and regulations governing broadcast stations.

Due to the fact that duty operators holding RP licenses often possess little technical background, licensing them has become superfluous. It is the licensee who ultimately must answer to the Commission when a station operates beyond its authorization. Thus, it is the licensee, not the duty operator, who will ultimately ensure that a station does not operate in an out-of-tolerance condition.

^{5/} The Associations also urge the Commission to eliminate rules associated with employing duty operators. For example, Section 73.1860(b), which specifies the duty operator's physical location in relation to the transmitter and monitor, would become superfluous with the elimination of the requirement that stations employ duty operators. Section 73.1550, which specifies the requirements for extension meters which are read by duty operators, would also become irrelevant and should be eliminated.

Although the Commission did not specifically request comments on whether the designation of a chief operator is still necessary, the Associations believe that it is appropriate to raise this related issue at this time. Under Section 73.1870 of the Commission's Rules, AM, FM and TV licensees must designate a chief operator to keep the station's technical operation in compliance with applicable regulations. The chief operator, like the duty operator, often holds only an RP license, and thus is not required to have special training or skill.

The Associations believe that designating a chief operator, like designating a duty operator, is in reality meaningless. Again, it is the responsibility of the licensee, not the chief operator, to ensure that a station is operating within the parameters set by the Commission. Requiring stations to designate a chief operator serves no real purpose and should be eliminated.

Instead of designating a chief operator or duty operator, a more appropriate method would be to designate a contact person who could be easily reached by the Commission. As the Commission suggests, there could be a master list of contact persons which is placed on a computerized data base. Licensees could be given access to the data base to update their own information. Each licensee could simply certify on its license renewal form that the data base contains correct information regarding its own contact person.

The Associations do not believe that the elimination of the requirements that stations have designated duty operators and

chief operators would encourage negligence or irresponsibility on the part of certain broadcast licensees. As noted, it is the licensees, not the duty operators or chief operators, who are ultimately held responsible for operation of the station. The vast majority of licensees work diligently to comply with the rules. Eliminating an unnecessary regulation will in no way alter the commitment of licensees to abide by those rules.

C. Antenna Tower Lighting

The Associations urge the Commission to abolish the requirement that antenna tower lighting be physically inspected on a daily basis to ensure that it is properly functioning as long as the tower lighting is electronically monitored. The automation of tower lighting inspection is simple and relatively inexpensive. Furthermore, as the Commission notes, continuous electronic monitoring of tower lighting would provide greater aviation safety since the appropriate personnel could be electronically and instantaneously notified of a lighting malfunction.

D. Monitoring Requirements

Realizing that monitoring procedures, schedules and technical analyses needed to comply with various regulations can vary with each station, the Commission is hesitant to require a specific list of monitoring requirements. Instead, the Commission proposes to require licensees to "conduct periodic inspections of the transmitting system" and "produce a record of transmitting system measurement, adjustment and preventive

maintenance procedures and schedules."^{6/} Although, on the surface, this requirement appears to provide licensees with the flexibility they need, it in fact fails to provide the necessary guidance and instead leaves licensees still wondering what is really required on technical logs. In order to give licensees solid guidelines from which to work, the Commission should require licensees to maintain a technical log which includes the power determining values, directional antenna parameters, monitoring point values and a check of the tower lighting circuits and controls.

IV. CONCLUSION

This NPRM gives the Commission a valuable opportunity to further its efforts to "reinvent government" by reducing unnecessary regulatory burdens imposed on broadcasters. The Associations ask the Commission to take into consideration the foregoing Joint Comments as it considers modifying its rules governing broadcast stations.

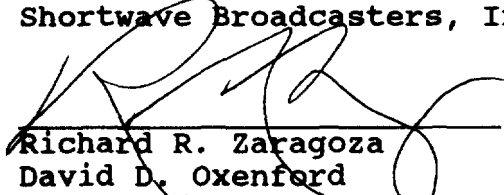
Respectfully submitted,

The Alabama Broadcasters
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The Arizona Broadcasters
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The Georgia Association of
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The Iowa Broadcasters Association
The Maine Association of
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Broadcasters Association

^{6/} See NPRM, at 24 (to be codified at 47 C.F.R. § 73.1580) (proposed December 7, 1994).

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The Washington State Association of
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The Wisconsin Broadcasters
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The National Association of
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